



NATIONAL WILDLIFE FEDERATION

GREAT LAKES NATURAL RESOURCE CENTER

People and Nature: Our Future Is in the Balance

October 13, 2011

Nancy Stoner
Deputy Administrator for Water
USEPA East (EPA East) [Old ICC Building]
1201 Constitution Avenue N.W.
Washington, DC 20004

Dear Ms. Stoner:

Per our discussion with Mr. Peck, we are providing you with the brief request that EPA follow-up with the State of Michigan regarding Rio Tinto's Kennecott Eagle Mining Company's (KEMC) Eagle Project.

We request that EPA send a letter to the State of Michigan to inform the state that:

- 1) Aspects of the Michigan Department of Environmental Quality's (MDEQ) mining and ground water discharge permits fall short of being fully consistent with the intentions of the Clean Water Act, and
- 2) EPA will ensure that MDEQ will monitor all aspects of the Eagle Project's operations such that Clean Water Act is not violated, and will pursue enforcement action should it become necessary, and
- 3) MDEQ must request and provide to EPA, information regarding the likelihood of encountering radioactive materials at the Eagle Mine.

Please know that while we are grateful for the letter you will send to the State of Michigan, we are extremely disappointed that EPA will not exercise Clean Water Act oversight. Specifically, we believe a NPDES permit is needed for (1) the Groundwater/Surface water Interface where mine discharge water flows directly into the East Branch of the Salmon Trout River, and (2) the over-topping of unmonitored holding ponds into the East Branch of the Salmon Trout River.

We also believe it very reasonable for EPA to request essential baseline information that has not been made available to the public so that citizens know what exactly will be discharged into their air and water and what contingency plans (or lack thereof) are in place in the event of mine fires, crown pillar collapse and subsidence, and Waste Water Treatment Plant shut downs. Recent media now speaks of Eagle as a source for cobalt, which likely means uranium is also present, and there is urgent need for an assessment for radioactive materials/uranium or uranium derivatives. The likelihood of radioactive materials is a topic MDEQ has not contemplated or questioned; USEPA should.

Even if EPA, at this point, believes it lacks the authority to require Michigan to demand that Kennecott seek CWA permits for discharges, the EPA's Healthy Watersheds Initiative certainly seems to provide a vehicle for EPA to take a far more active approach. From the "Purpose of the Healthy Watersheds Initiative":

The HWI is intended to preserve and maintain natural ecosystems by protecting our remaining healthy watersheds, preventing them from becoming impaired, and accelerating our restoration successes. It is based on an integrated, systems-based approach to watershed protection, supported by the latest science that views watersheds as dynamic systems that include surface water (instream flow in rivers and lake levels) and sub-surface groundwater quantity variability, water quality, biological resources and their habitat, and other key processes (e.g., geomorphic) that support healthy aquatic resources.

Our September 7th, 2011 letter to you remains an excellent reference for our many concerns about the Eagle Project, the threats it poses, and the State of Michigan.

Thank you in advance for your commitment to contact the state. We look forward to working together on behalf of clean water, and the public trust EPA must uphold.

Sincerely,

Michelle Halley, Attorney
National Wildlife Federation

Jeffery Loman, Member
Keweenaw Bay Indian Community

Laura Farwell
Concerned Citizen of Marquette County

c:
Greg Peck
Lisa Jackson